THE HONOURABLE SRI JUSTICE D. APPA RAO

W.P. 4792 OF 2006

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DATED: 23.05.2006

Between:-

1. The Cuddapah Vegetable Mercant's Association, represented by itsPresident Md. Nawabjan s/o Md. Quasim Saheb, aged 46 years, occ:Business, Stall No.153, OldMarket, Cuddapah

2. The Cuddapah Kirana Merchant's Association, represented by its President S. GhouseMohiuddin, aged 55 years, stall No. 93, Old Market, Cuddapah,

3. The Cuddapah Mutton Stalls Association, represented by itsPresdent Rahim, aged about 53 years, old Market, Cuddapah.

…Petitioners

And

The Municipal Corporation of Kadapa, represented by its Special Officer, Kadapa, Kadapa District.

…Respondent.

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O R D E R

The petitioners Merchants Association of Vegetables, Kirana and Mutton stalls, having obtained a decree in O.S. No. 296 of 2001 on the file of the III Additional Junior Civil Judge, Kadapa, for permanent injunction restraining the respondents from evicting their stalls except by due process of law, seek a writ of Mandamus on the ground that they being evicted without due process of law, ignoring the judgment

and decree.

Heard the learned counsel for the petitioners and the learned Standing Counsel for Municipality, Kadapa. With the consent of both sides, the matter is taken up today for final disposal.

The learned counsel for the respondent submitted that the notices are being issued for their eviction and they would be evicted only under due process of law and they do not resort to any coercive process.

Considering the submissions made by the learned counsel for the respondent-Municipal Corporation, the apprehension of the petitioners that they would be evicted without due process of law is unfounded and misplaced. In fact the petitioners can as well move competent civil court recoursing to the earlier decree obtained in O.S. No. 296 of 2001, should they apprehend any violation of the same. At any rate, the petitioners are having an alternative efficacious remedy by way of civil suit. The writ is unsuited for determination of rights of licensees/lessees.

In the result, the writ petition is disposed of at the stage of admission. No costs.

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23.05.2006

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